IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 876 of 2005

Between:

Kanamarlapudi Venkaiah, S/o. Ramaiah,
R/o. Cheruvu Madaram, Nelakondapalli Mandal, Khammam District.

... PETITIONER

AND

1 The Deputy Commissioner of Prohibition & Excise,

Warangal Division, Warangal District.
2 The Prohibition & Excise Inspector, Prohibition & Excise Station,
Nelakondapalli, Khammam District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order dated 15-12-2004 inn Cr.No.1692/02/P&E/B3, passed by 1st respondent in so far as it relates to putting a condition of furnishing Bank Guarantee for a sum of Rs. 70,000/- for release of 115 of Block Jaggery of 50 Kgs. each seized under Crime No. 330 of 2002-2003 by the 2nd respondent as illegal, arbitrary and direct the respondent to release the 115 of Black Jaggery of 50 Kgs. each seized under Crime No. 330 of 2002-2003 by the 2nd respondent as illegal, arbitrary and direct the respondent to release the 115 bags of Black Jaggery in favour of the petitioner and pass such other order or orders

Counsel for the Petitioner:MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following :

O R D E R:

The second respondent seized 115 bags of black jaggery of 50 kgs.each from the petitioner and registered Crime No.330/2002-03. Proceedings were initiated before the first respondent. Petitioner filed an application before the first respondent for release of the jaggery. Through his order dated 15.12.2004, the first respondent directed release of the seized jagerry, on condition that the petitioner furnishes bank guarantee for a sum of Rs.70,000/-. The same is challenged in this writ petition, as being arbitrary and excessive.

Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise.

The question as to whether the petitioner committed any crime pending under the provisions of the A.P.Excise Act and whether the seized stock is liable to be confiscated, needs to be considered at the final stage of the proceedings, pending before the first respondent. In the matter of release of the seized commodity, the value thereof needs to be taken into account. Petitioner states that he purchased 120 bags of jaggery of 50 kgs. each, at the rate of Rs.800/- per bag, and the bill dated 21.08.2002 indicates that the value of the seized stock is Rs.48,000/-. He contends that the first respondent has mistaken the seized quantity and fixed excess value.

The first respondent has proceeded as though the value of the seized stock is Rs.70,000/-. The bill, under which the seized stock was purchased, discloses that the value thereof is Rs.48,000/-.

Taking the same into account, the writ petition is disposed of, directing that the stock of 115 bags of jagerry, seized from the petitioner, shall be released on his furnishing bank guarantee for a sum of Rs.48,000/-. There shall be no order as to costs.

3rd February, 2005

Note: Issue copy in three days.

(B/o)

pan

To

1 The Deputy Commissioner of Prohibition & Excise,

Warangal Division, Warangal District.

2 The Prohibition & Excise Inspector, Prohibition & Excise

Station, Nelakondapalli, Khammam District.

3 Two C.Cs. to the Government Pleader for Proh.& Excise,

High Court buildings, Hyderabad (OUT)

4 Two C.D.copies